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OCT 7 2011

Harris Himes
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Hamilton, MT 59840
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FILED
DEBBIE HARMON, CLERK

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DEPUTY

Pro Se

MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY

STATE OF MONTANA,

Plaintiff,

vs.

HARRIS HIMES,

Defendant.

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Cause No. DC 11-117

**MOTION TO DISQUALIFY DISTRICT
COURT JUDGE JAMES A. HAYNES
FOR CAUSE**

* * * * *

COMES NOW the Defendant, Harris Himes, to bring this Motion to Disqualify District
Court Judge James A. Haynes for Cause based upon the following grounds:

STATUTORY AUTHORITY

3-1-804. Substitution of district judges.

SUBSTITUTION OF DISTRICT JUDGES



This section applies to judges presiding in district courts. . . .

(1) Each adverse party is entitled to one substitution of a district judge. . . .

(b) In a criminal action . . . A motion for substitution by the defendant . . . must be filed within 10 calendar days after the defendant . . . makes an initial appearance in the district court.

(2) (a) When an initial pleading is filed, the clerk of court shall stamp the name of the district judge to whom the case is assigned on the face of the original and all copies of that document.

(b) A motion for substitution of a district judge must be made by filing a written motion with the clerk, as follows:

The undersigned hereby moves for substitution of District Judge _____ in this case.

The moving party shall serve copies of the motion for substitution upon all other parties to the proceeding. The clerk shall immediately notify the district judge of the motion and, if there has already been a substitution, the first district judge to whom the case was assigned.

3-1-805. Disqualification for cause.

DISQUALIFICATION FOR CAUSE

This section is limited in its application to judges presiding in district courts

1. Whenever a party to any proceeding in any court shall file an affidavit alleging facts showing personal bias or prejudice of the presiding judge, such judge shall proceed no further in the cause. If the affidavit is filed against a district judge, the matter shall be referred to the Montana Supreme Court. If the affidavit is in compliance with subsections (a), (b), and (c) below, the Chief Justice shall assign a district judge to hear the matter....

(a) The affidavit for disqualification must be filed more than thirty (30) days before the

date set for hearing or trial.

(b) The affidavit shall be accompanied by a certificate of counsel of record that the affidavit has been made in good faith. An affidavit will be deemed not to have been made in good faith if it is based solely on rulings in the case which can be addressed in an appeal from the final judgment.

(c) Any affidavit which is not in proper form and which does not allege facts showing personal bias or prejudice may be set aside as void.

(d) The judge appointed to preside at a disqualification proceeding may assess attorneys fees, costs and damages against any party or his attorney who files such disqualification without reasonable cause and thereby hinders, delays or takes unconscionable advantage of any other party, or the court.

ARGUMENT

As attested to in the attached Affidavit of Harris Himes, then-district-court-candidate James A. Haynes indicated that he would "get even" with Defendant if given the opportunity, because Defendant would not support him in his election effort.

In accordance with statutory law, it is appropriate for Defendant to bring this Motion based upon Judge Haynes' "personal bias or prejudice."

This Motion is being brought within 10 days of Defendant's first appearance, and a copy is being mailed to the Montana State Supreme Court. There is no trial date.

CONCLUSION

For the above reasons and case law, it is requested that this Motion to Disqualify be granted.

DATED: October 6, 2011

Respectfully submitted,



Harris Himes

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Hamilton, MT 59840
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MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY

STATE OF MONTANA,

Plaintiff,

vs.

HARRIS HIMES,

Defendant.

Cause No. DC 11-117

AFFIDAVIT OF HARRIS HIMES

* * * * *

STATE OF MONTANA)
County of RAVALLI :ss.
~~MISSOULA~~)

I, HARRIS HIMES, being first duly sworn, do hereby state and allege as follows:

1. I am over 18 years of age and have personal knowledge of the matters discussed herein.
2. I live at 116 Bowman Rd., Hamilton, Montana.
3. When James A. Haynes first ran for District Judge -- and I don't remember the year -- his opponent was Geoff Mahar. I supported Mr. Mahar, because his values are similar to mine.
4. Mr. Haynes invited me to discuss his candidacy with him, because he wanted my support. We met at Nap's Grill. We had a pleasant discussion about our mutual experiences in the military -- and I greatly respect his time spent at West Point -- but I informed him that because he did not share my values, I could not support him.

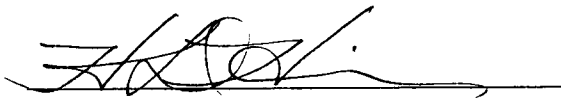
5. Mr. Haynes informed me that he had met with me as a friend, but since I would not support him, he told me to remember, "I get even."

6. Because I do remember, I am taking Judge Haynes at his word and am bringing this Motion.

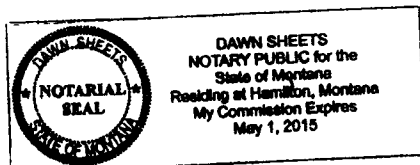
7. My first court appearance was September 28, 2011. There is no trial date set.

FURTHER AFFIANT SAYETH NOT.


DATED this 6th day of October, 2011.



Harris Himes



State of Montana
County of Beavalli
Subscribed and sworn/affirmed before me this 6th day of Oct, 2011
by Harris Himes


Notary Public for the State of Montana
My Commission expires: May 1, 2015